

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 414

AQUATIC INVASIVE SPECIES ADVISORY COUNCIL

***** 324.41401 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015

324.41401 Definitions.

Sec. 41401. As used in this part:

(a) "Aquatic invasive species" or "AIS" means an aquatic species that is nonnative to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

(b) "Council" means the aquatic invasive species advisory council created in section 41405.

(c) "Draft next vessel general permit" means the draft permit that the EPA prepares and publishes notice of in accordance with 40 CFR 124.6 and other applicable regulations before issuing the next vessel general permit.

(d) "EPA" means United States environmental protection agency.

(e) "Great Lakes commission" means the Great Lakes commission created by the Great Lakes basin compact established by joint legislative action of the Great Lakes states in 1955 and granted congressional consent through Public Law 90-419.

(f) "Great Lakes states" means Michigan, Illinois, Indiana, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

(g) "Next vessel general permit" means the permit the EPA issued to supersede the vessel general permit.

(h) "Vessel general permit" means the general permit entitled "Final National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges Incidental to the Normal Operation of a Vessel" announced at 73 FR 79,473 (December 29, 2008).

History: Add. 2011, Act 284, Imd. Eff. Dec. 21, 2011.

Popular name: Act 451

Popular name: NREPA

***** 324.41403 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015

324.41403 Legislative findings.

Sec. 41403. The legislature finds all of the following:

(a) The waters of the Great Lakes basin are precious public natural resources shared and held in trust by the Great Lakes states and provinces.

(b) The waters of the Great Lakes basin are interconnected and part of a single hydrologic system.

(c) The Great Lakes basin can concurrently serve multiple uses, such as municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, fishing, tourism, the subsistence, economic and cultural activities of native peoples, water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem.

(d) The Great Lakes states and Canadian provinces have a shared duty to protect, conserve, restore, improve, and manage the Great Lakes for the use, benefit, and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving, and managing the Great Lakes is through the joint pursuit of unified and cooperative principles, policies, and programs mutually agreed upon, enacted, and adhered to by the Great Lakes states and by the Great Lakes Canadian provinces.

(e) AIS are a threat to public health and safety, the environment and natural resources, and the economy. AIS are a serious threat to the ecological integrity and uses of the Great Lakes.

(f) Over 180 AIS have become established in the Great Lakes, not including microbes. Ballast water discharge has been a major source of introduction of AIS.

(g) Forms of trade have been identified as potential vectors of AIS introduction and spread, through purposeful or incidental buying, selling, and transport. The overall goal of this state's AIS prevention efforts is to close the open pathways for AIS.

(h) This state's aquatic invasive species management plan provides a strategy to prevent and control AIS in

waters of this state, including the Great Lakes. The plan, last updated in 2002, is being updated by the departments of environmental quality, natural resources, and agriculture and rural development to ensure that it provides a comprehensive approach to AIS including ballast water treatment standards and other AIS prevention, AIS monitoring, and AIS control and eradication, including rapid response to new AIS infestations.

(i) This state can effectively address the threat posed by AIS by updating and implementing a comprehensive AIS management plan, developing and adopting model programs to address AIS, and working cooperatively with other Great Lakes states and provinces to ensure a coordinated and consistent response to AIS.

History: Add. 2011, Act 285, Imd. Eff. Dec. 21, 2011.

Popular name: Act 451

Popular name: NREPA

***** 324.41405 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015

324.41405 Aquatic invasive species advisory council; creation; membership; appointment; vacancy; removal; first meeting; election of chairperson and officers; quorum; compliance with open meetings act; writings subject to freedom of information act; compensation; reimbursement; technical advisory committees.

Sec. 41405. (1) The aquatic invasive species advisory council is created within the department of environmental quality.

(2) The council shall consist of the following:

(a) The director of the department of environmental quality or his or her designee.

(b) The director of the department of natural resources or his or her designee.

(c) The director of the department of agriculture and rural development or his or her designee.

(d) The director of the state transportation department or his or her designee.

(e) The attorney general or his or her designee.

(f) The following members appointed by the governor:

(i) A representative of the United States department of the interior, national park service.

(ii) A representative of an association of Great Lakes shipping companies.

(iii) A representative of the horticulture industry.

(iv) A representative of a regional association of businesses that has an international port operator as a member.

(g) The following members appointed by the senate majority leader:

(i) A representative of a statewide private conservation organization.

(ii) A representative of the Great Lakes commission.

(iii) A representative of a statewide association of businesses.

(iv) A representative of an association of Indian tribes.

(v) A representative of a public university with an aquatic research center.

(h) The following members appointed by the speaker of the house of representatives:

(i) A representative of a regional or national private conservation organization.

(ii) A representative of an association of industries in the Great Lakes region.

(iii) A representative of a public utility.

(iv) A representative of a statewide association of local units of government.

(v) A representative of a statewide association of aquaculture businesses.

(3) The members first appointed to the council shall be appointed within 30 days after the effective date of this section. Members of the council shall serve for the life of the council.

(4) If a vacancy occurs on the council, the vacancy shall be filled in the same manner as the original appointment was made. The appointing officer may remove a member of the council for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(5) The first meeting of the council shall be called by the director of the department of environmental quality or his or her designee. At the first meeting, the council shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the council shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 3 or more members.

(6) A majority of the members of the council constitute a quorum for the transaction of business at a meeting of the council. The council may adopt bylaws governing its organization and procedure. Unless

otherwise provided in its bylaws, a majority of the members present and serving are required for official action of the council.

(7) The business that the council may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Members of the council shall serve without additional state compensation. However, members of the council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the council.

(10) The council may appoint technical advisory committees of individuals with relevant specific technical, scientific, or legal expertise, or relevant expertise in a trade listed in section 41409, or may appoint such individuals as adjunct members of the council without voting rights.

History: Add. 2011, Act 285, Imd. Eff. Dec. 21, 2011.

Popular name: Act 451

Popular name: NREPA

***** 324.41407 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015

324.41407 Final update to plan; recommendations; report.

Sec. 41407. (1) Within 180 days after the effective date of the amendatory act that added this section or within 60 days of the issuance of a draft update to the Michigan aquatic invasive species management plan by the department of environmental quality, whichever is later, the council shall provide recommendations to the department of environmental quality on a final update to the plan. The final update shall address AIS prevention, AIS monitoring, and AIS control and eradication, including rapid response to new AIS infestations. In preparing the final update to the plan, the department of environmental quality shall consult with the advisory council.

(2) The council shall provide its recommendations under subsection (1) to the governor upon request. The recommendations are nonbinding and advisory in nature and may be used at the discretion of and in the manner determined by the governor. The recommendations shall be suitable for use by the executive branch in collaborating with other Great Lakes states and Canadian provinces to create or strengthen regional programs or coordinate state and provincial programs to achieve the purposes of this section.

(3) Within 60 days after the issuance of a final update to the aquatic invasive species management plan, the council shall submit a report with recommendations on the funding necessary to implement the plan and the method of providing that funding. The council shall submit the report to the governor, the senate majority leader, the speaker of the house of representatives, and the standing committees of the senate and house with primary responsibility for natural resources, conservation, agriculture, and commerce.

History: Add. 2011, Act 285, Imd. Eff. Dec. 21, 2011.

Popular name: Act 451

Popular name: NREPA

***** 324.41409 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015

324.41409 Prevention of introduction and spread of AIS through trade; report; recommendations.

Sec. 41409. (1) Within 240 days after the effective date of the amendatory act that added this section, the council shall submit a report with recommendations for legislation or rules to prevent the introduction and spread of AIS through trade. The council shall submit the report to the governor, the senate majority leader, the speaker of the house of representatives, and the standing committees of the senate and house with primary responsibility for natural resources, conservation, agriculture, and commerce. In preparing the report, the council shall review the AIS laws of this state and other jurisdictions, including the other Great Lakes states.

(2) In the report under subsection (1), the council shall make recommendations on all of the following:

(a) The definition of aquatic invasive species. Before making recommendations under this subdivision, the council shall consider and address issues related to the domestication and cultivation of and potential beneficial effects of nonnative species and consider the "Invasive Species Definition Clarification and Guidance White Paper" submitted by the definitions subcommittee of the national invasive species advisory committee (ISAC) and approved by ISAC on April 27, 2006.

(b) Risk assessment processes to screen aquatic species proposed for trade and to screen pathways of introduction and spread. The risk assessment processes shall consider potential net harm to public health and safety, the environment and natural resources, and the economy. The processes shall place the burden to demonstrate the harmlessness of an aquatic species or pathway on the importer or other person responsible for introduction or distribution. The risk assessment process for species shall classify species into 3 lists: "prohibited", "permitted", and "restricted".

(c) Harmonizing federal and state law so that aquatic species on federal lists of either prohibited or permitted species of plants and animals are placed on the appropriate lists of this state.

(d) Establishing a program for aquatic species in trade to certify that the organisms are free of disease, insect pests, and incidental contamination by other species.

(e) An education program on safe-usage practices directed to both buyers and sellers of aquatic species in trade.

(f) Connecting regulations and education on aquatic species in trade to the protection of this state's natural resources as a component of the pure Michigan tourism advertising campaign.

(g) Financial and other resources for implementing recommendations under this subsection.

(h) Proposals for collaborating with other Great Lakes states and Canadian provinces to create or strengthen regional programs or coordinate state and provincial programs to achieve the goals set forth in subsection (1).

(3) In preparing the report required by this section, the council shall consult with representatives of organizations and businesses that deal with organisms in trade, including the aquarium, bait, pet, water garden, horticulture, aquaculture, and shipping trades.

History: Add. 2011, Act 286, Imd. Eff. Dec. 21, 2011.

Popular name: Act 451

Popular name: NREPA

***** 324.41411 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015 *****

324.41411 Draft next vessel general permit; development of recommendations by council.

Sec. 41411. The council shall develop recommendations regarding this state's comments on the draft next vessel general permit and certification response to the draft next vessel general permit under section 401 of title IV of the federal water pollution control act, 33 USC 1341, including a proposed ballast water treatment standard. The council shall provide its recommendations to the governor upon request. Such recommendations are nonbinding and advisory in nature and may be used at the discretion of and in the manner determined by the governor. The council's recommendations under this section shall be suitable for use by the executive branch in collaborating with other Great Lakes states to achieve a consistent position on the draft next vessel general permit. In developing its recommendations, the council shall regularly consult with the Great Lakes commission and the department of environmental quality, including the office of the Great Lakes.

History: Add. 2011, Act 284, Imd. Eff. Dec. 21, 2011.

Popular name: Act 451

Popular name: NREPA

324.41412 Phragmites australis control measures; review and recommendations.

Sec. 41412. The council shall review and provide recommendations on Phragmites australis control measures to the department and to the standing committees of the senate and house of representatives with primary jurisdiction relating to natural resources and the environment.

History: Add. 2012, Act 247, Imd. Eff. July 2, 2012.

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Popular name: NREPA

***** 324.41413 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015 *****

324.41413 Duties of council.

Sec. 41413. To facilitate coordination and minimize duplication in fulfilling its duties, the council shall do all of the following:

(a) Consider relevant recommendations and reports by other state, regional, federal, provincial, Canadian,

and international bodies and collaborations.

(b) Regularly consult with the Great Lakes commission and the department of environmental quality, including the office of the Great Lakes.

History: Add. 2011, Act 286, Imd. Eff. Dec. 21, 2011.

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***** 324.41415 THIS SECTION IS REPEALED BY ACT 286 OF 2011 EFFECTIVE DECEMBER 21, 2015

324.41415 Repeal of part.

Sec. 41415. This part is repealed effective 4 years after the effective date of the amendatory act that added this section.

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